

(g) **AVERAGE SPENDABLE INCOME.**—The Secretary of Defense shall determine, using a methodology and assumptions that the Secretary considers appropriate, the amounts of average spendable income of members of the uniformed services for various ranges of regular military compensation. For purposes of this subsection, spendable income is the total amount of regular military compensation that is available for purchase of goods and services after allocation of amounts for taxes, insurance, housing, gifts and contributions, and savings.

(h) **JOINT REGULATIONS.**—The Secretary of Defense and the other administering Secretaries shall jointly prescribe regulations to carry out this section.

(i) **OTHER DEFINITIONS.**—In this section:

(1) The term “primary dependent”, with respect to a member, means—

(A) the member’s spouse; or

(B) in the case of an unmarried member, a dependent described in paragraph (2) or (4) of section 401(a) of this title.

(2) The term “cost of living” means a price index selected by the Secretary of Defense, in consultation with the other administering Secretaries, from among the following indices:

(A) The Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics.

(B) Any other index developed in the private sector that the Secretary of Defense, in consultation with the other administering Secretaries, determines is comparable to the Consumer Price Index and is appropriate for use for purposes of this section.

(3) The term “uniformed services cost of living” means the price index selected as described in paragraph (2) and adjusted as the Secretary of Defense, in consultation with the other administering Secretaries, considers appropriate to reflect variations between expenses of members of the uniformed services (as offset by the basic allowance for subsistence) and the corresponding expenses of persons not members of the uniformed services with regard to the following:

(A) Nonhousing costs (including costs of transportation, goods, and services, taking into consideration savings attributable to use of such military facilities as commissary stores and exchange stores).

(B) Average income tax paid.

(C) Cost of health care.

(4) The term “base period”, with respect to a fiscal year, means the 12-month period ending on June 30 of the year in which such fiscal year begins.

(5) The term “administering Secretaries” means the following:

(A) The Secretary of Defense, with respect to the armed forces (other than the Coast Guard when it is not operating as a service in the Navy).

(B) The Secretary of Transportation, with respect to the Coast Guard when it is not operating as a service in the Navy.

(C) The Secretary of Commerce, with respect to the National Oceanic and Atmospheric Administration.

(D) The Secretary of Health and Human Services, with respect to the Public Health Service.

(6) The term “continental United States” means the 48 contiguous States and the District of Columbia.

(Added Pub. L. 103-337, div. A, title VI, § 602(a)(1), Oct. 5, 1994, 108 Stat. 2779.)

CONDITIONS ON PROVISION OF ALLOWANCE

Section 602(b) of Pub. L. 103-337 provided that:

“(1) A cost-of-living allowance under section 403b of title 37, United States Code, as added by subsection (a), may not be provided until after the end of the 90-day period beginning on the date the Secretary of Defense submits the report required under paragraph (2).

“(2) Before implementing section 403b of title 37, United States Code, the Secretary of Defense, in consultation with the other administering Secretaries (as defined in subsection (h)(6) of such section), shall submit to Congress a report describing—

“(A) the methods by which the Secretary of Defense would determine the price index to be used under such section and the types of nonhousing related costs that will be considered under such price index;

“(B) the manner by which the Secretary will establish the threshold percentage for purposes of such section;

“(C) the manner in which savings attributable to use of such military facilities as commissary stores, exchange stores, and military medical treatment facilities will be taken into consideration; and

“(D) the methods by which the Secretary proposes to prevent uncontrolled growth in Government expenditures through the cost-of-living allowance available under such section.”

[Report submitted by Secretary of Defense on Mar. 31, 1995.]

§ 404. Travel and transportation allowances: general

(a) Except as provided in subsection (f) and under regulations prescribed by the Secretaries concerned, a member of a uniformed service is entitled to travel and transportation allowances for travel performed or to be performed under orders, without regard to the comparative costs of the various modes of transportation—

(1) upon a change of permanent station, or otherwise, or when away from his designated post of duty regardless of the length of time he is away from that post;

(2) upon appointment, call to active duty, enlistment, or induction, from his home or from the place from which called or ordered to active duty to his first station;

(3) upon separation from the service, placement on the temporary disability retired list, release from active duty, or retirement, from his last duty station to his home or the place from which he was called or ordered to active duty, whether or not he is or will be a member of a uniformed service at the time the travel is or will be performed;

(4) when away from home to perform duty, including duty by a member of the Army National Guard of the United States or the Air National Guard of the United States, as the case may be, in his status as a member of the National Guard, for which he is entitled to, or has waived, pay under this title; and

(5) when not on active duty, if assigned to a Reserve school, and attending a reserve train-

ing meeting for the purpose of performing duties as an instructor at such meeting, if such meeting is 100 or more miles from the site at which the member would attend paid drills of the Reserve school to which he is assigned.

(b)(1) The Secretaries concerned may prescribe—

(A) the conditions under which travel and transportation allowances are authorized, including advance payments thereof; and

(B) the allowances for the kinds of travel, but not more than the amounts authorized in this section.

(2) In prescribing such conditions and allowances, the Secretaries concerned shall provide that a member who is performing travel under orders away from his designated post of duty and who is authorized a per diem under clause (2) of subsection (d) shall be paid for the meals portion of that per diem in a cash amount at a rate that is not less than the rate established under section 1011(a) of this title for meals sold to members. The preceding sentence shall not apply with respect to a member on field duty or sea duty (as defined in regulations prescribed under section 403(f)(3) of this title) or a member of a unit with respect to which the Secretary concerned has determined that unit messing is essential to the accomplishment of the unit's training and readiness.

(c)(1) Under uniform regulations prescribed by the Secretaries concerned and as provided in paragraph (2), a member who—

(A) is retired, or is placed on the temporary disability retired list, under chapter 61 of title 10;

(B) is retired with pay under any other law, or, immediately following at least eight years of continuous active duty with no single break therein or more than 90 days, is discharged with separation pay or severance pay or is involuntarily released from active duty with separation pay or readjustment pay; or

(C) is involuntarily separated from active duty during the period beginning on October 1, 1990, and ending on December 31, 2001,

may, not later than one year from the date he is so retired, placed on that list, involuntarily separated, discharged, or released, except as prescribed in regulations by the Secretaries concerned, select his home for the purposes of the travel and transportation allowances authorized by subsection (a).

(2) A member authorized under paragraph (1) to select a home for the purposes of such allowances may select as his home—

(A) any place within the United States;

(B) the place outside the United States from which the member was called or ordered to active duty to his first duty station; or

(C) any other place.

However, if the member selects as his home a place other than a place described in clause (A) or (B) of the preceding sentence, the travel and transportation allowances authorized by subsection (a) may not exceed the allowances which would be payable if the place selected as his home were in the United States (other than Hawaii or Alaska).

(d)(1) The travel and transportation allowances authorized for each kind of travel may not be more than one of the following:

(A) Transportation in kind, reimbursement therefor, or, under regulations prescribed by the Secretaries concerned, when travel by privately owned conveyance is authorized or approved as more advantageous to the Government, a monetary allowance in place of the cost of transportation, at the rates provided in section 5704 of title 5.

(B) Transportation in kind, reimbursement therefor, or a monetary allowance as provided in subparagraph (A), plus a payment in lieu of subsistence as provided in paragraph (2) in an amount sufficient to meet normal and necessary expenses in the area to which travel is performed.

(C) A mileage allowance at a rate per mile prescribed by the Secretaries concerned and based on distances established under subparagraph (A).

(2) Under regulations prescribed by the Secretaries concerned, a member of a uniformed service entitled to travel and transportation allowances under subsection (a) is entitled to any of the following:

(A) A per diem allowance at a rate not to exceed that established by the Secretaries concerned.

(B) Reimbursement for the actual and necessary expenses of official travel not to exceed an amount established by the Secretaries concerned.

(C) A combination of payments described in subparagraphs (A) and (B).

(3) A per diem allowance or maximum amount of reimbursement established for purposes of paragraph (2) shall be established, to the extent feasible, by locality.

(4) For travel consuming less than a full day, the payment prescribed by regulation under paragraph (2) shall be allocated in such manner as the Secretaries concerned prescribe.

(5) Effective January 1, 2003, the per diem rates established under paragraph (2)(A) for travel performed in connection with a change of permanent station or for travel described in paragraph (2) or (3) of subsection (a) shall be equal to the standard per diem rates established in the Federal travel regulation for travel within the continental United States of civilian employees and their dependents, unless the Secretaries concerned determine that a higher rate for members is more appropriate.

(e) A member who is on duty with, or is undergoing training for, the Air Mobility Command, the Marine Corps Transport Squadrons, the Fleet Tactical Support Squadrons, the Naval Aircraft Ferrying Squadrons, or any other unit determined by the Secretary concerned to be performing duties similar to the duties performed by such command or squadrons, and who is away from his permanent station, may be paid a per diem in lieu of subsistence in an amount not more than the amount to which he would be entitled if he were performing travel in connection with temporary duty without, in either case, the issuance of orders for specific travel.

(f)(1) The travel and transportation allowances authorized under this section for a member who is separated from the service or released from active duty may be paid or provided only for travel actually performed.

(2)(A) Except as provided in subparagraph (B), a member who is separated from the service or released from active duty and who—

(i) on the date of his separation from the service or release from active duty, has not served on active duty for a period of time equal to at least 90 percent of the period of time for which he initially enlisted or otherwise initially agreed to serve; or

(ii) is separated from the service or released from active duty under other than honorable conditions, as determined by the Secretary concerned;

may be provided travel and transportation under this section only by transportation in kind by the least expensive mode of transportation available or by a monetary allowance that does not exceed the cost to the Government of such transportation in kind.

(B) Subparagraph (A) does not apply to a member—

(i) who is retired, or is placed on the temporary disability retired list, under chapter 61 of title 10;

(ii) who is separated from the service or released from active duty for a medical condition affecting the member, as determined by the Secretary concerned;

(iii) who is separated from the service or released from active duty because the period of time for which the member initially enlisted or otherwise initially agreed to serve has been reduced by the Secretary concerned and is separated or released under honorable conditions;

(iv) who is discharged under section 1173 of title 10; or

(v) who is involuntarily separated from active duty during the period beginning on October 1, 1990, and ending on December 31, 2001.

(3) For purposes of entitlement to per diem in place of subsistence under subsection (d)(2), a member shall not be considered under subsection (a)(1) to be performing travel under orders away from his designated post of duty if such member—

(A) is an enlisted member serving his first tour of active duty;

(B) has not actually reported to a permanent duty station pursuant to orders directing such assignment; and

(C) is not actually traveling between stations pursuant to orders directing a change of station.

(g)(1) Subject to paragraph (2), a member of the armed forces accompanying a Member of Congress or a congressional employee on official travel may be authorized reimbursement for actual travel and transportation expenses incurred for such travel.

(2) The reimbursement authorized in paragraph (1) may be paid—

(A) at a rate that does not exceed the rate approved for official congressional travel; and

(B) only when the travel of the member is directed or approved by the Secretary of Defense or the Secretary concerned.

(3) In this subsection:

(A) The term “Member of Congress” means a member of the Senate or the House of Representatives, a Delegate to the House of Representatives, and the Resident Commissioner from Puerto Rico.

(B) The term “congressional employee” means an employee of a Member of Congress or an employee of Congress.

(h) Under uniform regulations prescribed by the Secretaries concerned, a member of a uniformed service entitled to travel and transportation allowances under subsection (a) is entitled to reimbursement for parking fees, ferry fares, and bridge, road, and tunnel tolls actually incurred incident to such travel.

(i)(1) In the case of a member of a reserve component performing active duty for training or inactive-duty training who is not otherwise entitled to travel and transportation allowances in connection with such duty under subsection (a), the Secretary concerned may reimburse the member for housing service charge expenses incurred by the member in occupying transient government housing during the performance of such duty. If transient government housing is unavailable or inadequate, the Secretary concerned may provide the member with lodging in kind in the same manner as members entitled to such allowances under subsection (a).

(2) Any payment or other benefit under this subsection shall be provided in accordance with regulations prescribed by the Secretaries concerned.

(3) The Secretary may pay service charge expenses under paragraph (1) and expenses of providing lodging in kind under such paragraph out of funds appropriated for operation and maintenance for the reserve component concerned. Use of Government charge cards is authorized for payment of these expenses.

(4) Decisions regarding the availability or adequacy of government housing at a military installation under paragraph (1) shall be made by the installation commander.

(j) In this section, the term “involuntarily separated” has the meaning given that term in section 1141 of title 10.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 472; Pub. L. 89-680, §1(1), Oct. 15, 1966, 80 Stat. 957; Pub. L. 89-718, §§55, 56, Nov. 2, 1966, 80 Stat. 1122, 1123; Pub. L. 90-168, §3, Dec. 1, 1967, 81 Stat. 525; Pub. L. 91-183, Dec. 30, 1969, 83 Stat. 840; Pub. L. 94-296, §1, May 29, 1976, 90 Stat. 584; Pub. L. 96-342, title VIII, §807(a), Sept. 8, 1980, 94 Stat. 1096; Pub. L. 96-343, §5(a), Sept. 8, 1980, 94 Stat. 1126; Pub. L. 97-60, title I, §121(a), Oct. 14, 1981, 95 Stat. 999; Pub. L. 98-94, title IX, §908(b), Sept. 24, 1983, 97 Stat. 637; Pub. L. 98-525, title V, §533(g), title VI, §613(a), title XIV, §1402(c), Oct. 19, 1984, 98 Stat. 2528, 2539, 2621; Pub. L. 99-145, title VI, §612(a), Nov. 8, 1985, 99 Stat. 639; Pub. L. 99-500, §101(c) [title IX, §9073], Oct. 18, 1986, 100 Stat. 1783-82, 1783-113, and Pub. L. 99-591, §101(c) [title IX, §9073], Oct. 30, 1986, 100 Stat. 3341-82, 3341-113; Pub. L. 99-661, div. A, title VI, §614(a),

title XIII, § 1343(b)(2), Nov. 14, 1986, 100 Stat. 3879, 3995; Pub. L. 100-26, § 8(a), (d)(6), Apr. 21, 1987, 101 Stat. 284, 285; Pub. L. 100-180, div. A, title VI, § 617(a), Dec. 4, 1987, 101 Stat. 1096; Pub. L. 101-189, div. A, title VI, § 621(a), Nov. 29, 1989, 103 Stat. 1446; Pub. L. 101-510, div. A, title V, § 503(a), Nov. 5, 1990, 104 Stat. 1558; Pub. L. 102-25, title VII, § 702(b)(1)–(3), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102-484, div. A, title VI, § 624, Oct. 23, 1992, 106 Stat. 2423; Pub. L. 103-160, div. A, title V, § 561(l)(1), Nov. 30, 1993, 107 Stat. 1668; Pub. L. 103-337, div. A, title VI, §§ 621, 622, Oct. 5, 1994, 108 Stat. 2784; Pub. L. 104-106, div. A, title VI, § 621, Feb. 10, 1996, 110 Stat. 363; Pub. L. 104-201, div. A, title XII, § 1252, Sept. 23, 1996, 110 Stat. 2698; Pub. L. 105-85, div. A, title VI, § 602(b)(1), Nov. 18, 1997, 111 Stat. 1772; Pub. L. 105-261, div. A, title V, § 571(f), Oct. 17, 1998, 112 Stat. 2025; Pub. L. 106-65, div. A, title VI, § 631, Oct. 5, 1999, 113 Stat. 661; Pub. L. 106-398, § 1 [[div. A], title V, § 571(f), title X, § 1087(b)(3)], Oct. 30, 2000, 114 Stat. 1654, 1654A-134, 1654A-292; Pub. L. 107-107, div. A, title VI, § 631, Dec. 28, 2001, 115 Stat. 1143.)

HISTORICAL AND REVISION NOTES

| <i>Revised section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|--|---|
| 404(a) | 37:253(a) (1st and 3d sentences). | Oct. 12, 1949, ch. 681, § 303(a), (d), 63 Stat. 813, 815; Mar. 31, 1955, ch. 20, § 2(11), 69 Stat. 21; Aug. 11, 1955, ch. 806, § 1, 69 Stat. 691; June 13, 1956, ch. 383, 70 Stat. 275; July 12, 1960, Pub. L. 86-638, § 1, 74 Stat. 471. |
| 404(b) | 37:253(a) (4th sentence). | |
| 404(c) | 37:253(a) (2d sentence). | |
| 404(d) | 37:253(a) (last sentence, less proviso). | |
| 404(e) | 37:253(d). | |
| 404(f) | 37:253(a) (proviso of last sentence). | |

In subsection (a), the words “that post” are substituted for the words “such designated posts of duty”. In clauses (2) and (3), the words “called or” are inserted to conform to the second phrase of clause (2). The word “competent” is omitted as surplusage.

In subsection (b), the words “The Secretaries concerned” are substituted for the words “The respective Secretaries concerned” to conform to other subsections of the source statute.

In subsection (c)(1), the words “under chapter 61 of title 10” are inserted for clarity. In clause (2), the words “under any other law” are substituted for the words “for any other reason”.

In subsection (d), the words “may not be more than one of the following” are substituted for the words “shall be limited to one of the following”. The words “or to be established” and “existing” are omitted, since this section, being permanent law, is consistently applicable in the present and does not speak only as of the date of its enactment. The words “of the Army” are substituted for the words “Department of the Army” after the words “Chief of Finance” to conform to section 3036(a)(5) of title 10. The words “under clause (1) of this subsection” are substituted for the words “pursuant to existing law”.

In subsection (e), the words “Fleet Logistic Air Wings” are substituted for the words “Fleet Logistics Support Unit” to reflect present terminology.

In subsection (f), the words “under this section” are substituted for the words “under conditions authorized herein”. The words “on the member’s” are inserted for clarity.

CODIFICATION

Pub. L. 99-591 is a corrected version of Pub. L. 99-500. Amendment of section by Pub. L. 99-500 and Pub. L. 99-591 is based on section 615(a) of S. 2638, Ninety-ninth Congress, as passed by the Senate on Aug. 9, 1986, which was enacted into permanent law by Pub. L. 99-500 and

Pub. L. 99-591. S. 2638 was subsequently enacted as Pub. L. 99-661.

PRIOR PROVISIONS

Provisions similar to those in subsec. (g) of this section were contained in the following appropriations acts:

Oct. 12, 1984, Pub. L. 98-473, title I, § 101(h) [title VIII, § 8053], 98 Stat. 1904, 1933.

Dec. 8, 1983, Pub. L. 98-212, title VII, § 761, 97 Stat. 1449.

Dec. 21, 1982, Pub. L. 97-377, title I, § 101(c) [title VII, § 767], 96 Stat. 1833, 1861.

Dec. 29, 1981, Pub. L. 97-114, title VII, § 771, 95 Stat. 1590.

AMENDMENTS

2001—Subsec. (d)(5). Pub. L. 107-107 added par. (5).

2000—Subsec. (b)(2). Pub. L. 106-398, § 1 [[div. A], title X, § 1087(b)(3)], substituted “section 403(f)(3)” for “section 402(e)”.

Subsecs. (c)(1)(C), (f)(2)(B)(v). Pub. L. 106-398, § 1 [[div. A], title V, § 571(f)], substituted “December 31, 2001” for “September 30, 2001”.

1999—Subsec. (i)(1). Pub. L. 106-65, § 631(a), inserted at end “If transient government housing is unavailable or inadequate, the Secretary concerned may provide the member with lodging in kind in the same manner as members entitled to such allowances under subsection (a).”

Subsec. (i)(3). Pub. L. 106-65, § 631(b), inserted “and expenses of providing lodging in kind under such paragraph” after “paragraph (1)” and “Use of Government charge cards is authorized for payment of these expenses.” at end.

Subsec. (i)(4). Pub. L. 106-65, § 631(c), added par. (4).

1998—Subsecs. (c)(1)(C), (f)(2)(B)(v). Pub. L. 105-261 substituted “during the period beginning on October 1, 1990, and ending on September 30, 2001” for “during the nine-year period beginning on October 1, 1990”.

1997—Subsecs. (g) to (k). Pub. L. 105-85 redesignated subsecs. (h) to (k) as (g) to (j), respectively, and struck out former subsec. (g) which read as follows: “In the case of an enlisted member who is in a travel status and not entitled to receive per diem in lieu of subsistence for any day (or portion of a day) because the member is furnished meals in a Government mess, the member may not be paid a basic allowance for subsistence for such day (or portion of such day) that the member is furnished meals in a Government mess.”

1996—Subsec. (d)(1)(A). Pub. L. 104-106 struck out “, based on distances established over the shortest usually traveled route, under mileage tables prepared under the direction of the Secretary of Defense” after “section 5704 of title 5”.

Subsec. (j)(1). Pub. L. 104-201 substituted “active duty for training” for “annual training duty”.

1994—Subsec. (d)(1)(A). Pub. L. 103-337, § 621, substituted “Secretary of Defense” for “Secretary of the Army”.

Subsecs. (j), (k). Pub. L. 103-337, § 622, added subsec. (j) and redesignated former subsec. (j) as (k).

1993—Subsecs. (c)(1)(C), (f)(2)(B)(v). Pub. L. 103-160 substituted “nine-year period” for “five-year period”.

1992—Subsec. (e). Pub. L. 102-484 substituted “Air Mobility Command” for “Military Airlift Command” and “the Naval Aircraft Ferrying Squadrons, or any other unit determined by the Secretary concerned to be performing duties similar to the duties performed by such command or squadrons,” for “or the Naval Aircraft Ferrying Squadrons,”.

1991—Pub. L. 102-25 struck out “of this section”, “of this subsection”, and “of this paragraph” wherever appearing in subsecs. (a) to (d) and (f).

1990—Subsec. (c)(1). Pub. L. 101-510, § 503(a)(1), added subpar. (C) and inserted “involuntarily separated,” after “placed on that list,” in concluding provisions.

Subsec. (f)(2)(B)(v). Pub. L. 101-510, § 503(a)(2), added cl. (v).

Subsec. (j). Pub. L. 101-510, § 503(a)(3), added subsec. (j).

1989—Subsec. (i). Pub. L. 101-189 added subsec. (i).

1987—Subsec. (d). Pub. L. 100-26, § 8(a), terminated amendments by Pub. L. 99-500 and Pub. L. 99-591. See Termination of Amendments by Public Laws 99-500 and 99-591 note below.

Subsec. (d)(1)(A). Pub. L. 100-26, § 8(d)(6), substituted “privately owned” for “privately-owned”.

Subsec. (h). Pub. L. 100-180 added subsec. (h).

1986—Subsec. (d). Pub. L. 99-500 and Pub. L. 99-591 substituted “Subject to paragraph (2), transportation” for “Transportation” in par. (1)(B) and “subparagraph (A) of this paragraph” for “clause (1) of this subsection” in par. (1)(C) and added pars. (2), (4), and (5), and redesignated former par. (2) as (3) and substituted “Except as provided in paragraph (4) of this subsection and under” for “Under”. See Termination of Amendments by Public Laws 99-500 and 99-591 note below.

Subsec. (d)(1)(B). Pub. L. 99-661, § 614(a)(1), (2), substituted “payment in lieu of subsistence as provided in paragraph (2) of this subsection in an amount sufficient” for “per diem in place of subsistence in an amount not more than \$50 determined by the Secretaries concerned to be sufficient” and struck out “to be” after “travel is”.

Subsec. (d)(1)(C). Pub. L. 99-661, § 1343(b)(2), substituted “subparagraph (A) of this paragraph” for “clause (1) of this subsection”.

Subsec. (d)(2) to (4). Pub. L. 99-661, § 614(a)(3), added pars. (2) to (4) and struck out former par. (2) which read as follows: “Under regulations prescribed by the Secretaries concerned, when either travel is to an area designated as a high cost area in those regulations or the per diem of paragraph (1)(B) of this subsection is less than the amount of the actual and necessary expenses required by the unusual circumstances of the travel assignment, reimbursement may be authorized for actual and necessary expenses, but not for more than \$75 for each day in a travel status.”

1985—Subsec. (d). Pub. L. 99-145 substituted par. (1) for first sentence, designated second sentence as par. (2), and in par. (2) substituted “paragraph (1)(B)” for “clause (2)”. Prior to amendment, first sentence read as follows: “The travel and transportation allowances authorized for each kind of travel may not be more than one of the following—

“(1) transportation in kind, reimbursement therefor, or a monetary allowance in place of the cost of transportation at a rate per mile prescribed by the Secretaries concerned and based on distances established, over the shortest usually traveled route, under mileage tables prepared under the direction of the Secretary of the Army;

“(2) transportation in kind, reimbursement therefor, or a monetary allowance as provided by clause (1) of this subsection plus a per diem in place of subsistence in an amount sufficient to meet actual and necessary expenses, but in no event more than \$50 a day; or

“(3) a mileage allowance at a rate per mile prescribed by the Secretaries concerned and based on distances established under clause (1) of this subsection.”

1984—Subsec. (a)(5). Pub. L. 98-525, § 613(a), added par. (5).

Subsec. (c)(1)(B). Pub. L. 98-525, § 533(g), inserted “separation pay or” before “severance pay” and before “readjustment pay”.

Subsec. (g). Pub. L. 98-525, § 1402(c), added subsec. (g). 1983—Subsec. (f)(3). Pub. L. 98-94 added par. (3).

1981—Subsec. (a). Pub. L. 97-60, § 121(a)(1), substituted “Except as provided in subsection (f) of this section and under regulations” for “Under regulations”.

Subsec. (b). Pub. L. 97-60, § 121(a)(2), designated existing provisions as par. (1), redesignated existing pars. (1) and (2) as subpars. (A) and (B) of the newly designated par. (1), and added par. (2).

Subsec. (c). Pub. L. 97-60, § 121(a)(3), designated existing provisions as par. (1) and existing pars. (1) and (2)

as subpars. (A) and (B) of the newly designated par. (1), inserted “and as provided in paragraph (2) of this subsection” after “Secretaries concerned” in provisions preceding newly designated subpar. (A), and added par. (2).

Subsec. (f). Pub. L. 97-60, § 121(a)(4), designated existing provisions as par. (1), substituted “for a member who is separated from the service or released from active duty may be paid or provided only for travel actually performed” for “may be paid on the member’s separation from the service or release from active duty, whether or not he performs the travel involved” in par. (1) as so designated, and added par. (2).

1980—Subsec. (d). Pub. L. 96-343, § 5(a), substituted in par. (1) “per mile prescribed by the Secretaries concerned and” for “that is not more than 7 cents a mile”, and in par. (3) “at a rate per mile prescribed by the Secretaries concerned and” for “of not more than 10 cents a mile”.

Pub. L. 96-342 substituted in par. (2) “\$50” for “\$35” and in provision following par. (3) “\$75” for “\$50”.

1976—Subsec. (d). Pub. L. 94-296 in cl. (2) substituted “in an amount sufficient to meet actual and necessary expenses, but in no event more than \$35 a day” for “of not more than \$25 a day”, and in text following cl. (3) inserted provisions relating to travel designated as travel to a high cost area by the prescribed regulations and increased the maximum reimbursement from \$40 to \$50.

1969—Pub. L. 91-183 increased from \$16 to \$25, the maximum per diem allowance, and from \$30 to \$40, the maximum per diem allowance in unusual circumstances.

1967—Subsec. (a)(4). Pub. L. 90-168 added cl. (4).

1966—Subsec. (c). Pub. L. 89-680 inserted into the authorization for selection of a home for the purposes of the travel and transportation allowances authorized by subsection (a) of this section provisions requiring selection not later than one year from the date of retirement, placement, discharge, or release, except as provided in regulations to be prescribed by the Secretaries concerned.

Subsec. (d). Pub. L. 89-718, § 55, struck out reference to the Chief of Finance of the Army in cl. (1), substituted “subsection” for “section” and “\$16” for “\$12” in cl. (2), substituted “subsection” for “section” in cl. (3), and inserted provision authorizing reimbursement on an actual expenses basis where, due to unusual circumstances of a travel assignment, per diem reimbursement is not enough, but placing a limit of \$30 for each day in a travel status.

Subsec. (e). Pub. L. 89-718, § 56, substituted “Military Airlift Command” for “Military Air Transport Service”.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-85 effective Jan. 1, 1998, see section 602(g) of Pub. L. 105-85, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 621(b) of Pub. L. 101-189 provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to travel and transportation commenced after the date of the enactment of this Act [Nov. 29, 1989].”

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-180 applicable with respect to travel performed after Dec. 4, 1987, see section 617(c) of Pub. L. 100-180, set out as an Effective Date note under section 1591 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1986 AMENDMENTS

Section 612(b)(1) of Pub. L. 100-180 provided that: “The amendments made by section 614(a) of the National Defense Authorization Act for Fiscal Year 1987 [section 614(a) of Pub. L. 99-661, which amended this

section] shall be implemented by the Secretaries concerned (as defined in section 101(5) of title 37, United States Code) not later than 90 days after the date of the enactment of this Act [Dec. 4, 1987] and shall apply with respect to travel performed on or after the date of implementation."

Section 614(b) of Pub. L. 99-661, which provided that amendments made by section 614(a) of Pub. L. 99-661 shall become effective on such date as the President makes a certification regarding savings to the United States by such amendments, was repealed by Pub. L. 100-180, div. A, title VI, §612(a), Dec. 4, 1987, 101 Stat. 1093.

EFFECTIVE DATE OF 1985 AMENDMENT

Section 612(c) of Pub. L. 99-145 provided that: "The amendments made by this section [amending this section and section 406 of this title] shall apply to travel performed after September 30, 1985."

EFFECTIVE DATE OF 1984 AMENDMENT

Section 613(b) of Pub. L. 98-525 provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to travel performed after September 30, 1984."

Amendment by section 1402(c) of Pub. L. 98-525 effective Oct. 1, 1985, see section 1404 of Pub. L. 98-525, set out as a note under section 520b of Title 10, Armed Forces.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 121(d) of Pub. L. 97-60 provided that:

"(1) Except as provided in paragraphs (2), (3), (4), and (5), the amendments made by this section [amending this section and sections 405a and 406 of this title] shall take effect on November 1, 1981, and shall apply to members who are separated from the service or released from active duty on or after November 1, 1981.

"(2) Paragraph (2) of section 404(b) of title 37, United States Code, as added by subsection (a)(2)(C), shall apply to travel performed after October 31, 1981.

"(3) Paragraph (3) of section 406(a) of title 37, United States Code, as added by subsection (b)(1)(C), shall take effect on the date of the enactment of this Act [Oct. 14, 1981].

"(4) The amendments made by subsections (a)(3) and (b)(3) [amending this section and section 406 of this title] shall take effect on November 1, 1981, and shall apply to members who are retired, placed on the temporary disability retired list, discharged, or involuntarily released on or after November 1, 1981, except that such amendments shall not apply to any member who before November 1, 1981, had completed eighteen years of active service.

"(5) The amendment made by subsection (b)(2)(C) [amending section 406 of this title] shall take effect on the date of the enactment of this Act [Oct. 14, 1981]."

EFFECTIVE DATE OF 1980 AMENDMENTS

Section 5(c) of Pub. L. 96-343 provided that: "The amendments made by this section [amending this section and section 411 of this title] shall be effective with respect to travel and transportation performed after August 31, 1980."

Section 807(b) of Pub. L. 96-342 provided that: "The amendments made by subsection (a) [amending this section] shall only apply to travel and transportation expenses incurred after September 30, 1980."

EFFECTIVE DATE OF 1976 AMENDMENT

Section 2 of Pub. L. 94-296 provided that: "The amendments made by this Act [amending this section] become effective on the first day of the first calendar month following the date of enactment [May 29, 1976]."

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-168 effective on first day of first calendar month following Dec. 1, 1967, see section

7 of Pub. L. 90-168, set out as a note under section 138 of Title 10, Armed Forces.

TERMINATION OF AMENDMENTS BY PUBLIC LAWS 99-500 AND 99-591

Section 8(a) of Pub. L. 100-26, as amended by Pub. L. 100-180, div. A, title VI, §612(b)(2), Dec. 4, 1987, 101 Stat. 1093, provided that: "The amendments made to section 404(d) of title 37, United States Code, by section 614(a) of the Defense Authorization Act [section 614(a) of Pub. L. 99-661] shall be executed as if that portion of section 9073 of the Defense Appropriations Act [section 101(c) [title IX, §9073] of Pub. L. 99-500 and Pub. L. 99-591, enacting S.2638, §615, which amended subsec. (d) of this section and enacted a provision set out as a note under this section] which is before the proviso had not been enacted. Such portion of section 9073 which is before the proviso shall not be in effect after the date of the enactment of this Act [Apr. 21, 1987], and the reference to 'this section' in such proviso shall be deemed to refer to section 614 of the Defense Authorization Act."

TRANSMISSION OF CERTIFICATION OF TRAVEL AND TRANSPORTATION ALLOWANCES TO CONGRESS WITH RESPECT TO FISCAL YEAR 1987

Section 615(b) of S. 2638, as passed by the Senate on Aug. 9, 1986, and as enacted into law by section 101(c) [title IX, §9073] of Pub. L. 99-500 and Pub. L. 99-591, related to transmission to Congress by Secretary of Defense of certification of costs of travel and transportation allowances for fiscal year 1987. See Termination of Amendments by Public Laws 99-500 and 99-591 note above.

INCREASE IN RATE PER MILE FOR MILEAGE ALLOWANCE

Pub. L. 98-473, title I, §101(h) [title VIII, §8113], Oct. 12, 1984, 98 Stat. 1904, 1944, provided that: "The Secretaries concerned (as defined in section 101(5) of title 37, United States Code), under uniform regulations prescribed by them and to the extent that funds are available within the permanent change of station travel account, may increase the rate per mile for mileage allowance under section 404(d)(2) of title 37, United States Code, to 15 cents per mile."

1962 INCREASE IN PER DIEM RATES; REIMBURSEMENT FOR ACTUAL EXPENSES INCIDENT TO TRAVEL

The increase from \$12 to \$16 in the per diem allowance and the provision for reimbursement for actual expenses incident to travel up to \$30 per day provided in the amendment of subsec. (d) of this section by Pub. L. 89-718 had already been put into effect by Pub. L. 87-500, §§1, 2, June 27, 1962, 76 Stat. 111, which although not amending subsec. (d) of this section, had raised the per diem allowance and provided for the reimbursement for actual expenses up to \$30 per day through the device of effecting an amendment to section 303(a) of the Career Compensation Act of 1949, act Oct. 12, 1949, ch. 681, title III, 63 Stat. 813. Pub. L. 89-500 was repealed by section 75(3) of Pub. L. 89-718, except with respect to rights and duties that matured, penalties that were incurred, and proceedings that were begun before November 2, 1966.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 404a, 406, 406a, 406b, 406c, 408, 410, 411, 411a, 411b, 411e, 420, 433, 1002, 1003 of this title; title 5 section 4109; title 10 sections 1174a, 1175, 2013.

§ 404a. Travel and transportation allowances: temporary lodging expenses

(a) PAYMENT OR REIMBURSEMENT OF SUBSISTENCE EXPENSES.—(1) Under regulations prescribed by the Secretaries concerned, a member of a uniformed service who is ordered to make a